

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Apr 30, 2021**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

HAITHAM ALMHANA, and A.H.  
and the marital community comprised  
thereof,

Plaintiffs,

v.

TRESTLE CREEK, LLC;  
GREYSTAR MANAGEMENT  
SERVICES, LP; and REBEKAH  
GIFFORD,

Defendants.

NO: 2:20-CV-399-RMP

STIPULATED PROTECTIVE  
ORDER

BEFORE THE COURT is a Stipulated Protective Order, ECF No. 25, by  
Plaintiffs A.H. and Haitham Almhana and Defendants Trestle Creek LLC, et al. A  
district court may issue protective orders regarding discovery upon a showing of  
good cause. Fed. R. Civ. P. 26(c). Before issuing a stipulated protective order, a  
district court judge should ensure that the protective order's restrictions do not  
infringe on the public's general right to inspect and copy judicial records and  
documents. *See Kamakana v. City and Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th

1 Cir. 2006); *see also Courthouse News Serv. v. Planet*, 947 F.3d 581, 589 (9th Cir.  
2 2020) (recognizing a long-held First Amendment right of access to court  
3 proceedings and documents).

4 Having reviewed the protective order and the remaining record, the Court  
5 finds good cause to grant the stipulated motion and enter the agreed-upon protective  
6 order and exhibit. Accordingly, the parties' stipulated protective order, **ECF No. 25**,  
7 is **ACCEPTED** in the form set forth below.

## 8 **PROTECTIVE ORDER**

### 9 1. PURPOSES AND LIMITATIONS

10 Discovery in this action is likely to involve production of confidential,  
11 proprietary, or private information for which special protection may be warranted.  
12 Accordingly, the parties hereby stipulate to and petition the court to enter the  
13 following Stipulated Protective Order. The parties acknowledge that this agreement  
14 does not confer blanket protection on all disclosures or responses to discovery, the  
15 protection it affords from public disclosure and use extends only to the limited  
16 information or items that are entitled to confidential treatment under the applicable  
17 legal principles, and it does not presumptively entitle parties to file confidential  
18 information under seal.

1 2. “CONFIDENTIAL” MATERIAL

2 “Confidential” material shall include documents marked “confidential” by  
3 one of the parties and shall also include the following documents and tangible things  
4 produced or otherwise exchanged, regardless of whether or not the documents are  
5 marked “confidential”: The medical records of A.H., one of the plaintiffs in this case,  
6 and the name of A.H. A.H. must only be identified by the initials A.H.

7 3. SCOPE

8 The protections conferred by this agreement cover not only confidential  
9 material (as defined above), but also (1) any information copied or extracted from  
10 confidential material; (2) all copies, excerpts, summaries, or compilations of  
11 confidential material; and (3) any testimony, conversations, or presentations by  
12 parties or their counsel that might reveal confidential material.

13 However, the protections conferred by this agreement do not cover  
14 information that is in the public domain or becomes part of the public domain  
15 through trial or otherwise.

16 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

17 4.1 Basic Principles. A receiving party may use confidential material that  
18 is disclosed or produced by another party or by a non-party in connection with this  
19 case only for prosecuting, defending, or attempting to settle this litigation.  
20 Confidential material may be disclosed only to the categories of persons and under  
21 the conditions described in this agreement. Confidential material must be stored and

1 maintained by a receiving party at a location and in a secure manner that ensures that  
2 access is limited to the persons authorized under this agreement.

3 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
4 otherwise ordered by the court or permitted in writing by the designating party, a  
5 receiving party may disclose any confidential material only to:

6 (a) the receiving party’s counsel of record in this action, as well as  
7 employees of counsel to whom it is reasonably necessary to disclose the information  
8 for this litigation;

9 (b) the officers, directors, and employees (including in house  
10 counsel) of the receiving party to whom disclosure is reasonably necessary for this  
11 litigation, unless the parties agree that a particular document or material produced is  
12 for Attorney’s Eyes Only and is so designated;

13 (c) experts and consultants to whom disclosure is reasonably  
14 necessary for this litigation and who have signed the “Acknowledgment and  
15 Agreement to Be Bound” (Exhibit A);

16 (d) the court, court personnel, and court reporters and their staff;

17 (e) copy or imaging services retained by counsel to assist in the  
18 duplication of confidential material, provided that counsel for the party retaining the  
19 copy or imaging service instructs the service not to disclose any confidential material  
20 to third parties and to immediately return all originals and copies of any confidential  
21 material;

1 (f) during their depositions, witnesses in the action to whom  
2 disclosure is reasonably necessary and who have signed the “Acknowledgment and  
3 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the designating  
4 party or ordered by the court. Pages of transcribed deposition testimony or exhibits  
5 to depositions that reveal confidential material must be separately bound by the court  
6 reporter and may not be disclosed to anyone except as permitted under this  
7 agreement;

8 (g) the author or recipient of a document containing the information  
9 or a custodian or other person who otherwise possessed or knew the information.

10 4.3 Filing Confidential Material. Before filing confidential material or  
11 discussing or referencing such material in court filings, the filing party shall confer  
12 with the designating party to determine whether the designating party will remove  
13 the confidential designation, whether the document can be redacted, or whether a  
14 motion to seal or stipulation and proposed order is warranted. During the meet and  
15 confer process, the designating party must identify the basis for sealing the specific  
16 confidential information at issue, and the filing party shall include this basis in its  
17 motion to seal, along with any objection to sealing the information at issue. Failure  
18 to satisfy this requirement will result in the motion to seal being denied, in  
19 accordance with the strong presumption of public access to the Court’s files.  
20  
21

1     5.     DESIGNATING PROTECTED MATERIAL

2             5.1     Exercise of Restraint and Care in Designating Material for Protection.

3     Each party or non-party that designates information or items for protection under  
4     this agreement must take care to limit any such designation to specific material that  
5     qualifies under the appropriate standards. The designating party must designate for  
6     protection only those parts of material, documents, items, or oral or written  
7     communications that qualify, so that other portions of the material, documents,  
8     items, or communications for which protection is not warranted are not swept  
9     unjustifiably within the ambit of this agreement.

10            Mass, indiscriminate, or routinized designations are prohibited. Designations  
11     that are shown to be clearly unjustified or that have been made for an improper  
12     purpose (*e.g.*, to unnecessarily encumber or delay the case development process or  
13     to impose unnecessary expenses and burdens on other parties) expose the  
14     designating party to sanctions.

15            If it comes to a designating party's attention that information or items that it  
16     designated for protection do not qualify for protection, the designating party must  
17     promptly notify all other parties that it is withdrawing the mistaken designation.

18            5.2     Manner and Timing of Designations. Except as otherwise provided in  
19     this agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise  
20  
21

1 stipulated or ordered, disclosure or discovery material that qualifies for protection  
2 under this agreement must be clearly so designated before or when the material is  
3 disclosed or produced.

4 (a) Information in documentary form: (*e.g.*, paper or electronic  
5 documents and deposition exhibits, but excluding transcripts of depositions or other  
6 pretrial or trial proceedings), the designating party must affix the word  
7 “CONFIDENTIAL” to each page that contains confidential material. If only a  
8 portion or portions of the material on a page qualifies for protection, the producing  
9 party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate  
10 markings in the margins). Notwithstanding the foregoing, any medical records  
11 related to A.H., a plaintiff in this case, and the name of A.H. shall be deemed  
12 confidential regardless of whether it is marked “confidential.” A.H. must only be  
13 identified by the initials A.H.

14 (b) Testimony given in deposition or in other pretrial proceedings:  
15 the parties and any participating non-parties must identify on the record, during the  
16 deposition or other pretrial proceeding, all protected testimony, without prejudice to  
17 their right to so designate other testimony after reviewing the transcript. Any party  
18 or non-party may, within fifteen days after receiving the transcript of the deposition  
19 or other pretrial proceeding, designate portions of the transcript, or exhibits thereto,  
20 as confidential. If a party or non-party desires to protect confidential information at  
21 trial, the issue should be addressed during the pre-trial conference.

1 (c) Other tangible items: the producing party must affix in a  
2 prominent place on the exterior of the container or containers in which the  
3 information or item is stored the word “CONFIDENTIAL.” If only a portion or  
4 portions of the information or item warrant protection, the producing party, to the  
5 extent practicable, shall identify the protected portion(s).

6 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
7 failure to designate qualified information or items does not, standing alone, waive  
8 the designating party’s right to secure protection under this agreement for such  
9 material. Upon timely correction of a designation, the receiving party must make  
10 reasonable efforts to ensure that the material is treated in accordance with the  
11 provisions of this agreement.

12 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

13 6.1 Timing of Challenges. Any party or non-party may challenge a  
14 designation of confidentiality at any time. Unless a prompt challenge to a  
15 designating party’s confidentiality designation is necessary to avoid foreseeable,  
16 substantial unfairness, unnecessary economic burdens, or a significant disruption or  
17 delay of the litigation, a party does not waive its right to challenge a confidentiality  
18 designation by electing not to mount a challenge promptly after the original  
19 designation is disclosed.

20 6.2 Meet and Confer. The parties must make every attempt to resolve any  
21 dispute regarding confidential designations without court involvement. Any motion



1 regarding confidential designations or for a protective order must include a  
2 certification, in the motion or in a declaration or affidavit, that the movant has  
3 engaged in a good faith meet and confer conference with other affected parties in an  
4 effort to resolve the dispute without court action. The certification must list the date,  
5 manner, and participants to the conference. A good faith effort to confer requires a  
6 face-to-face meeting or a telephone conference.

7       6.3 Judicial Intervention. If the parties cannot resolve a challenge without  
8 court intervention, the designating party may file and serve a motion to retain  
9 confidentiality. The burden of persuasion in any such motion shall be on the  
10 designating party. Frivolous challenges, and those made for an improper purpose  
11 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
12 expose the challenging party to sanctions. All parties shall continue to maintain the  
13 material in question as confidential until the court rules on the challenge.

14 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
15 IN OTHER LITIGATION

16       If a party is served with a subpoena or a court order issued in other litigation  
17 that compels disclosure of any information or items designated in this action as  
18 “CONFIDENTIAL,” that party must:

19           (a) promptly notify the designating party in writing and include a  
20 copy of the subpoena or court order;

21           (b) promptly notify in writing the party who caused the subpoena or

1 order to issue in the other litigation that some or all of the material covered by the  
2 subpoena or order is subject to this agreement. Such notification shall include a copy  
3 of this agreement; and

4 (c) cooperate with respect to all reasonable procedures sought to be  
5 pursued by the designating party whose confidential material may be affected.

6 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

7 If a receiving party learns that, by inadvertence or otherwise, it has disclosed  
8 confidential material to any person or in any circumstance not authorized under this  
9 agreement, the receiving party must immediately (a) notify in writing the designating  
10 party of the unauthorized disclosures, (b) use its best efforts to retrieve all  
11 unauthorized copies of the protected material, (c) inform the person or persons to  
12 whom unauthorized disclosures were made of all the terms of this agreement, and  
13 (d) request that such person or persons execute the “Acknowledgment and  
14 Agreement to Be Bound” that is attached hereto as Exhibit A.

15 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
16 PROTECTED MATERIAL

17 When a producing party gives notice to receiving parties that certain  
18 inadvertently produced material is subject to a claim of privilege or other protection,  
19 the obligations of the receiving parties are those set forth in Federal Rule of Civil  
20 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
21 may be established in an e-discovery order or agreement that provides for production

1 without prior privilege review. The parties agree to the entry of a non-waiver order  
2 under Fed. R. Evid. 502(d) as set forth herein.

3 10. NON-TERMINATION AND RETURN OF DOCUMENTS

4 Within 60 days after the termination of this action, including all appeals, each  
5 receiving party must return all confidential material to the producing party, including  
6 all copies, extracts and summaries thereof. Alternatively, the parties may agree upon  
7 appropriate methods of destruction.

8 Notwithstanding this provision, counsel are entitled to retain one archival  
9 copy of all documents filed with the court, trial, deposition, and hearing transcripts,  
10 correspondence, deposition and trial exhibits, expert reports, attorney work product,  
11 and consultant and expert work product, even if such materials contain confidential  
12 material.

13 The confidentiality obligations imposed by this agreement shall remain in  
14 effect until a designating party agrees otherwise in writing or a court orders  
15 otherwise.

16 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this  
17 Order and Exhibit and provide copies to counsel.

18 **DATED** April 30, 2021.

19  
20 s/ Rosanna Malouf Peterson  
21 ROSANNA MALOUF PETERSON  
United States District Judge